

# PATENT COOPERATION TREATY

From the INTERNATIONAL SEARCHING AUTHORITY

# PCT

Patent Mail Received

INVITATION TO PAY ADDITIONAL FEES

AUG 04 2008

(PCT Article 17(3)(a) and Rule 40.1)

To:

DORSEY & WHITNEY LLP  
Attn. Abelev, Gary  
250 Park Avenue  
New York NY 10177  
ETATS-UNIS D'AMERIQUE

Date of mailing  
(day/month/year)

29/07/2008

Applicant's or agent's file reference

188684/PCT

**PAYMENT DUE**

within **ONE MONTH** from  
the above date of mailing

International application No.

PCT/US2007/081982

International filing date  
(day/month/year)

19/10/2007

Applicant

THE GENERAL HOSPITAL CORPORATION

1. This International Searching Authority

- (i) considers that there are 3 (number of) inventions claimed in the international application covered by the claims indicated ~~below~~ on the extra sheet:

and it considers that the international application does not comply with the requirements of unity of invention (Rules 13.1, 13.2 and 13.3) for the reasons indicated ~~below~~ on the extra sheet:

- (ii) ☒ has carried out a partial international search (see Annex) ☐ will establish the international search report on those parts of the international application which relate to the invention first mentioned in claims Nos.:  
see annex

- (iii) will establish the international search report on the other parts of the international application only if, and to the extent to which, additional fees are paid

2. The applicant is hereby **invited**, within the time limit indicated above, to pay the amount indicated below:

EUR 1.700,00 x 2 = EUR 3.400  
Fee per additional invention number of additional inventions total amount of additional fees

Or, \_\_\_\_\_ x \_\_\_\_\_ = \_\_\_\_\_

The applicant is informed that, according to Rule 40.2(c), the payment of any additional fee may be made under protest, i.e., a reasoned statement to the effect that the international application complies with the requirement of unity of invention or that the amount of the required additional fee is excessive.

3. ☐ Claim(s) Nos. \_\_\_\_\_ have been found to be unsearchable under Article 17(2)(b) because of defects under Article 17(2)(a) and therefore have not been included with any invention.

Name and mailing address of the International Searching Authority



European Patent Office, P.B. 5818 Patentlaan 2  
NL-2280 HV Rijswijk  
Tel. (+31-70) 340-2040, Tx. 31 651 epo nl,  
Fax: (+31-70) 340-3016

Authorized officer

Louis Kainde

# DOCKETED

AANGETEKEN  
EINSCHREIBEN  
RECOMMANDE

1. The present communication is an Annex to the invitation to pay additional fees (Form PCT/ISA/206). It shows the results of the international search established on the parts of the international application which relate to the invention first mentioned in claims Nos.:  
see 'Invitation to pay additional fees'
2. This communication is not the international search report which will be established according to Article 18 and Rule 43.
3. If the applicant does not pay any additional search fees, the information appearing in this communication will be considered as the result of the international search and will be included as such in the international search report.
4. If the applicant pays additional fees, the international search report will contain both the information appearing in this communication and the results of the international search on other parts of the international application for which such fees will have been paid.

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category °	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	US 6 538 817 B1 (FARMER JASON N [US] ET AL) 25 March 2003 (2003-03-25) claims 8,19; figure 2	1,3,6,18
X	GELIKONOV V M ET AL: "Two-wavelength optical coherence tomography" RADIOPHYSICS AND QUANTUM ELECTRONICS, KLUWER ACADEMIC PUBLISHERS-CONSULTANTS BUREAU, NE, vol. 47, no. 10-11, 1 October 2004 (2004-10-01), pages 848-859, XP019290800 ISSN: 1573-9120 page 851, lines 8,9 page 857, lines 3-5 figure 1 page 856 - page 858	1,2,4-7, 18
X	US 2006/146339 A1 (FUJITA HIROSHI [JP]) 6 July 2006 (2006-07-06) paragraph [0044] figures 1,4	1,2,6,7, 18
X	US 6 501 551 B1 (TEARNEY GUILLERMO [US] ET AL) 31 December 2002 (2002-12-31) column 15, lines 23-27 figure 16	1,6,7,18
X	US 2006/103850 A1 (ALPHONSE GERARD A [US] ET AL) 18 May 2006 (2006-05-18) figure 15	1,3,6,18

☐ Further documents are listed in the continuation of box C.

☒ Patent family members are listed in annex.

° Special categories of cited documents :

- \*A\* document defining the general state of the art which is not considered to be of particular relevance
- \*E\* earlier document but published on or after the international filing date
- \*L\* document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)
- \*O\* document referring to an oral disclosure, use, exhibition or other means
- \*P\* document published prior to the international filing date but later than the priority date claimed

- \*T\* later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention
- \*X\* document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone
- \*Y\* document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art.
- \*&\* document member of the same patent family

This International Searching Authority found multiple (groups of) inventions in this international application, as follows:

1. claims: 1-7,18

directed to an apparatus and process for providing imaging information comprising three different arrangements which (i) provide several electro-magnetic radiations each at a different wavelength, (ii) obtain a relative phase between two radiations, and (iii) provide information about the irradiated portion

---

2. claims: 8-14

directed to an apparatus for obtaining information comprising a fiber which guides one electro-magnetic radiation for irradiation and a second radiation for modifying the property of the irradiated area

---

3. claims: 15-17

directed to an apparatus for obtaining information for a structure comprising a dispersive arrangement to receive a plurality of electro-magnetic radiations and forward this dispersed radiation onto a sample

---

Claims 1 and 6 disclose an apparatus for providing imaging information of a sample using three different arrangements which (i) provide several electro-magnetic radiations each at a different wavelength, (ii) obtain a relative phase between two radiations, and (iii) provide information about the irradiated portion. Claim 18 discloses the respective process. These claims are considered to be unitary and form the first invention.

Claim 8 does not include any of the features of claims 1, 6, and 18. Vice versa, the fiber disclosed in claim 8 is not mentioned in any of the independent claims 1, 6, and 18. Claim 15 does not include any of the features of claims 1, 6, 8, and 18 nor is the dispersive arrangement of claim 15 mentioned in any other independent claim. As there is no common feature between the three groups of claims there is no common single general inventive concept and therefore, these claims are considered to be not unitary.

Patent document cited in search report		Publication date	Patent family member(s)	Publication date
US 6538817	B1	25-03-2003	NONE	
US 2006146339	A1	06-07-2006	AT 365905 T CN 1785122 A DE 602005001494 T2 EP 1666838 A1 JP 2006162366 A	15-07-2007 14-06-2006 28-02-2008 07-06-2006 22-06-2006
US 6501551	B1	31-12-2002	NONE	
US 2006103850	A1	18-05-2006	NONE	

### **New amounts for procedural fees as of 01/04/2008:**

According to the decision of the Administrative Council of 14/12/2007 amending the Rules relating to Fees (CA/D 16/07), the amounts due to be paid to the Office as of 01/04/2008 shall be as follows:

<b>EUR 1 700.00</b>	for a search fee in respect of an international search
<b>EUR 1 120.00</b>	for a protest fee (Rule 40.2(e) PCT) for international applications with an international filing date before 13/12/2007

If within six months of 01/04/2008 a fee is paid in due time but only in the amount due before that date, such fee shall be deemed to have been validly paid if the deficit is made good within two months of an invitation to that effect from the European Patent Office.

### **Neue Beträge für Verfahrensgebühren ab 01/04/2008:**

Gemäß des Beschlusses des Verwaltungsrats vom 14/12/2007 zur Änderung der Gebührenordnung (CA/D 16/07) sind die ab dem 01/04/2008 an das Amt zu entrichtenden Beträge wie folgt festgesetzt:

<b>EUR 1 700.00</b>	für eine internationale Recherchegebühr
<b>EUR 1 120.00</b>	für die Widerspruchsgebühr (Regel 40.2 e) PCT) für vor dem 13/12/2007 eingereichte internationale Anmeldungen

Wird eine Gebühr innerhalb von sechs Monaten nach dem 1. April 2008 fristgerecht entrichtet, jedoch nur in der vor diesem Zeitpunkt maßgebenden Höhe, so gilt diese Gebühr als wirksam entrichtet, wenn die Differenz innerhalb von zwei Monaten nach einer entsprechenden Aufforderung durch das Europäische Patentamt beglichen wird.

### **Nouveaux montants pour taxes procédurales:**

Selon la décision du Conseil d'administration du 14 décembre 2007 modifiant le règlement relatif aux taxes (CA/D 16/07), les taxes à payer à l'Office à partir du 01/04/2008 sont fixées comme suit :

<b>EUR 1 700.00</b>	pour une taxe de recherche internationale
<b>EUR 1 120.00</b>	pour une taxe de réserve (règle 40, paragraphe 2e) PCT pour des demandes internationales déposées avant le 13/12/2007

Si, dans un délai de six mois à compter du 1er avril 2008, une taxe est acquittée dans les délais, mais seulement à concurrence du montant applicable avant cette date, la taxe concernée est réputée valablement acquittée si le montant restant dû est versé dans les

## Important Information

### General

- The **claims cannot be changed** at this point in the procedure, the transmitted report is **not** the international search report (see Art. 19 PCT).
- Any payment has to be made **directly** to this ISA, payments to other entities will not be accepted.
- In case of a **total of more than 2 inventions** found: when paying please **specify exactly** which claims should be searched.
- An **extension of** the set **time limit** cannot be granted.

### Payment by cheque (not accepted as of 01/04/2008):

- The **date to be considered as the date on which the payment is made** is the **date of receipt of the cheque at the EPO**, provided that the cheque is **met**.
- Copies of cheques sent by fax or by post are not considered to be a valid payment.
- The fees shall be paid in euro, no equivalents in other currencies.
- No payments by cheque shall be accepted as of 01/04/2008 (date of receipt at the EPO).

### Payment or transfer to a bank account:

- The **date to be considered as the date on which the payment is made** is the date on which the amount of the payment or the transfer is **actually entered** in a bank account or Giro account held by the EPO.
- The fees shall be paid in euros, no equivalents in other currencies, all charges to be carried by the applicant
- For a list of accounts held by the EPO please see [http://www.european-patent-office.org/epo/new/bank\\_euro.pdf](http://www.european-patent-office.org/epo/new/bank_euro.pdf)

### Payment by deposit account with the EPO:

- The **date to be considered as the date on which the payment is made** is the date that the **authorisation** to deduct fees from the deposit account is **received at the EPO**.

**Note:** *If you don't have a deposit account with the EPO yourself you might want to consider using the account of an associate as a safe and quick way of paying.*

### Payment by credit card:

- Payments by **credit card** are **not possible**.

### Payments under protest according to Rule 40 PCT:

- The protest will **not be accepted without a payment** of additional fees.
- The protest has to be **accompanied by a technical reasoning**

## Important information

Rule 40 PCT has been amended as of 1 April 2005. For general information on the protest procedure at ISA/EP, please refer to OJ EPO 3/2005, pages 226/227.

1. As in the past the payment of any additional fee may be made under protest i.e. accompanied by a reasoned statement to the effect that the international application complies with the requirement of unity of invention or that the amount of the required additional fees is excessive according to amended Rule 40.2(c) PCT.
2. After due receipt of the payment of the additional search fee(s) under protest (i.e. within one month from the date of the invitation), the EPO will, prior to examination of the protest by the Board of Appeal, subject the invitation to pay additional fees to an internal review. The result of this review will be communicated to the applicant.
3. The fee for examination of the protest (Rule 40.2(e) PCT) is payable within one month from the date of the invitation to pay additional fees (Rule 40.1(iii) PCT). However, in order to allow the applicant to consider the result of the internal review, the applicant may pay the protest fee within one month from the date of notification of the result of the review.
4. Should the applicant wish to maintain his protest in light of the review he must pay the protest fee within one month from the date of notification of the result of the internal review, in which case the protest will be referred to the Board of Appeal. Should the Board of Appeal find that the protest was entirely justified, the protest fee shall be refunded.
5. In the event of the applicant already having paid the protest fee before notification of the result of the review, the protest will be referred to the Board of Appeal **unless** the result of the internal review was that the protest was **entirely** justified **or** the applicant indicates within one month from the date of notification of the result of the review that he does not wish to continue the protest. In both cases, the protest fee will be refunded.

## **European Patent Organisation**

### **Account details**

N° 3 338 800 00 (BLZ 700 800 00)  
Dresdner Bank  
Promenadeplatz 7  
D-80273 München  
SWIFT Code: DRESDEFF700  
IBAN: DE20 7008 0000 0333 880000  
BIC: DRESDEFF



Bitte beachten Sie, dass angeführte Nichtpatentliteratur (wie z. B. wissenschaftliche oder technische Dokumente) je nach geltendem Recht dem Urheberrechtsschutz und/oder anderen Schutzarten für schriftliche Werke unterliegen könnte. Die Vervielfältigung urheberrechtlich geschützter Texte, ihre Verwendung in anderen elektronischen oder gedruckten Publikationen und ihre Weitergabe an Dritte ist ohne ausdrückliche Zustimmung des Rechtsinhabers nicht gestattet.

Veuillez noter que les ouvrages de la littérature non-brevets qui sont cités, par exemple les documents scientifiques ou techniques, etc., peuvent être protégés par des droits d'auteur et/ou toute autre protection des écrits prévue par les législations applicables. Les textes ainsi protégés ne peuvent être reproduits ni utilisés dans d'autres publications électroniques ou imprimées, ni rediffusés sans l'autorisation expresse du titulaire du droit d'auteur.

Please be aware that cited works of non-patent literature such as scientific or technical documents or the like may be subject to copyright protection and/or any other protection of written works as appropriate based on applicable laws. Copyrighted texts may not be copied or used in other electronic or printed publications or re-distributed without the express permission of the copyright holder.